

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MATTHEW HERD,

Petitioner,

v.

BARRY SMITH, *et al.*,

Respondents.

CIVIL ACTION
NO. 17-538

ORDER

AND NOW, this 10th day of October, 2017, upon consideration of the Petition for a Writ of *Habeas Corpus* (ECF No. 1), Respondent's Response (ECF No. 12), and the Report and Recommendation of U.S. Chief Magistrate Judge Linda K. Caracappa, (ECF No. 13), it is hereby **ORDERED** that:

1. Magistrate Judge Caracappa's Report and Recommendation is **APPROVED** and **ADOPTED**;¹
2. Herd's Petition for a Writ of *Habeas Corpus* is **DENIED** and **DISMISSED** with prejudice;
3. No certificate of appealability shall issue;
4. This case shall be **CLOSED** for statistical purposes.

BY THE COURT:

/s/ Gerald J. Pappert
GERALD J. PAPPERT, J.

¹ When no objection is made to a report and recommendation, the Court should, as a matter of good practice, "satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." FED. R. CIV. P. 72(b) advisory committee notes; *see also Oldrati v. Apfel*, 33 F. Supp. 2d 397, 399 (E.D. Pa. 1998) ("In the absence of a timely objection, therefore, this Court will review [a] Magistrate Judge[s] . . . Report and Recommendation for 'clear error.'"). No clear error appears on the face of the record and the Court accordingly accepts Judge Caracappa's recommendation.